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DIRECTOR

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Michigan Senate  
Committee on Government Operations  
P.O. Box 30036  
Lansing, MI 48909-7536

Dear Majority Leader Richardville and Committee Members,

The Department of Insurance and Financial Services (DIFS) has received and reviewed the drafts of Senator Colbeck's proposed legislation titled 'The Patient-Centered Care Act.' The department believes it understands the sponsor's goal, but after review, there are several questions and concerns we have:

- How does this legislation impact the Department of Community Health (DCH) and its functions as the State's Medicaid Agency? It appears that, in certain respects, the legislation would transfer DCH's function of performing Medicaid eligibility determinations to DIFS. Is that the intent? DCH has the knowledge and expertise in the area of Medicaid eligibility, not DIFS. Is such a transfer appropriate?
- How would coupon eligibility be determined? Will current Medicaid eligibility (using the Federal Poverty Level) continue to serve as the threshold? Or will it include those who would be eligible under the proposed expansion?
- Those eligible for a government assistance program will receive a "...discount from the base cost of a benefit package that still enables the recipient to realize 100% of the value of the government assistance program." Does this mean their health savings account will be credited with a certain dollar amount? Or a percentage discount upon enrolling in a qualified health plan (QHP)? How is this amount determined? Does this money originate from the appropriate government assistance program?
- Should DCH, not DIFS, create and administer the portal for government assistance programs to be used by the exchanges? Again, DCH has the knowledge and expertise in the area of Medicaid eligibility, not DIFS.
- How will the Health Savings Accounts be funded? Would the money the State contributes to Medicaid be used to fund the Health Savings Accounts? Or would the savings from the migration be used to fund the Health Savings Accounts?

- Section 7 of the bill imposes additional QHP certification requirements to ensure the selection of QHPs includes sufficient number of traditional insurance and fee-for-service options. These undefined terms appear to conflict with certification requirements of the Affordable Care Act (ACA). Would those additional QHP certification requirements be preempted under the ACA? Under the ACA, state requirements that "prevent the application of a provision of the ACA" could be preempted. (See Section 1321(d) of the ACA).
- In addition, Section 7 of the bill imposes a requirement that sufficient direct primary care services be available in QHPs. This provision may duplicate existing requirements because DIFS already performs a network adequacy review for QHPs, which includes standards related to sufficiency of direct primary care services.
- Section 9, sub (7) sets forth a state licensing scheme for exchanges. Is this licensing scheme intended to apply only if the U.S. Department of Health & Human Services (HHS) determines that such entities are eligible to operate as Exchanges under the ACA? The ACA only permits two types of exchanges: (1) a governmental agency; or (2) a non-profit established by a State. It does not appear that either type of entity is contemplated under this legislation. This legislation appears to contemplate only two types of exchanges; (1) a private for-profit entity; or (2) a private non-profit entity. The ACA does not permit either a private for-profit or private non-profit entity to serve as an Exchange. (See 45 CFR § 155.100). Therefore, DIFS does not believe that this licensing scheme will be approved by HHS, as it clearly conflicts with federal law.
- Section 11, sub (6) indicates that trust fund monies shall be expended "to pay any deductibles under high-deductible health insurance plan components of a QHP." However, the term "high-deductible health insurance plan component" is undefined. The ACA requires that QHPs meet certain actuarial values and be categorized by such values: Platinum-90% AV; Gold-80% AV; Silver-70% AV; Bronze-60% AV. Would any of these qualify as "high-deductible" plans? Or is it intended that the high-deductible health insurance plan be a catastrophic plan?

We very much appreciate the opportunity to raise these questions.

Sincerely,



Teri Morante  
Senior Deputy Director